

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF MICHIGAN

IN RE:

VERNON GENE GOOSEN,  
  
Debtor.

Case No. 09-01935-jrh  
Chapter 13 Filed: 02/25/09  
Converted to Chapter 11: 12/15/09  
Converted to Chapter 7: 02/03/10

HON. JEFFREY R. HUGHES  
U.S. Bankruptcy Judge

\_\_\_\_\_  
VERNON GOOSEN and REBECCA  
GOOSEN,

Plaintiffs,

v.

Adv. Pro. Case No. 09-80569-jrh

INDEPENDENT BANK and FIFTH THIRD  
BANK,

Defendants.  
\_\_\_\_\_

JOHN A. PORTER, TRUSTEE,  
  
Plaintiff,

v.

Adv. Pro. Case No. 10-80434-jrh

FIFTH THIRD BANK, INDEPENDENT  
BANK, VERNON G. GOOSEN, and  
REBECCA K. GOOSEN,

Defendants.  
\_\_\_\_\_

**STIPULATION RESOLVING CONSOLIDATED ADVERSARY PROCEEDINGS**

Vernon and Rebecca K. Goosen, through their attorneys; Defendant, Independent Bank, through its attorneys; and John A. Porter, Chapter 7 Trustee, through his attorneys, stipulate and agree as follows:

### **Background**

1. Debtor commenced the base bankruptcy proceeding by filing a voluntary Chapter 13 petition on February 25, 2009. Debtor's case was converted to a Chapter 11 case pursuant to an Order dated December 15, 2009, and was converted to a Chapter 7 case pursuant to an Order dated February 3, 2010.

2. John A. Porter (the "Trustee") was appointed as the Chapter 7 Trustee on February 3, 2010.

3. Debtor, together with his non-filing spouse, Rebecca K. Goosen ("Mrs. Goosen"), commenced Adversary Proceeding Case No. 09-80569-jrh on December 5, 2009 against Independent Bank and Fifth Third Bank.

4. The Trustee commenced Adversary Proceeding Case No. 10-80434-jrh on June 24, 2010, against Debtor, Mrs. Goosen, Independent Bank, and Fifth Third Bank. On the same date, the Trustee filed a Motion to Consolidate.

5. This Court entered an Order consolidating the two adversary proceedings on July 26, 2010.

6. The adversary proceedings involve the competing claims of Debtor, Mrs. Goosen, Independent Bank, and the Trustee to funds that are being held in three of Debtor and Mrs. Goosen's joint bank accounts at Fifth Third Bank.

7. On or about February 20, 2009, Fifth Third Bank placed a permanent hold on the three joint bank accounts, which have the following balances:

- a. Account No. 41221: \$903.44
- b. Account No. 2256: \$2,616.51
- c. Account No. 5365: \$16,935.07

8. Upon information and belief, Fifth Third Bank claims no interest in any of these funds. A default has been entered against Fifth Third Bank in both adversary proceedings.

9. Debtor, Mrs. Goosen, Independent Bank, and the Trustee have reached an agreement to resolve the consolidated adversary proceedings.

**Agreement**

10. Within ten (10) days after the date of an order approving this Stipulation, Independent Bank shall file a release of its garnishment against Debtor with the Ottawa County Circuit Court.

11. Within ten (10) days after the date of an order approving this Stipulation, the Trustee shall file a motion requesting that this Court enter a default judgment against Fifth Third Bank and requesting that Fifth Third Bank be ordered to pay the funds held in Accounts No. 4122, 2256, and 5365 in the manner set forth in this Stipulation within ten (10) days after entry of the default judgment.

12. Debtor, Mrs. Goosen, Independent Bank, and the Trustee agree that the funds held in Accounts No. 4122, 2256, and 5365 shall be divided as follows:

- a. Mrs. Goosen shall receive the \$903.44 in Account No. 4122.
- b. Debtor shall receive the \$2,616.51 in Account No. 2256.
- c. Independent Bank shall receive \$2,000.00 from Account No. 5365.
- d. The Trustee shall receive the remaining \$14,935.07 in Account No. 5365

for the bankruptcy estate.

13. This stipulation resolves all claims raised in Adversary Proceeding Case No. 09-80569-jrh and Adversary Proceeding Case No. 10-80434-jrh.

FOSTER, SWIFT, COLLINS & SMITH, P.C.  
*Attorneys for Chapter 7 Trustee*

Dated: August 26, 2010

By:   
\_\_\_\_\_  
Scott H. Hogan (P41921)  
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LOUIS R. LINT, P.C.  
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Rebecca K. Goosen*

Dated: August \_\_\_\_\_, 2010

By: \_\_\_\_\_  
Louis R. Lint (P25130)  
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COTNER LAW OFFICE  
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Rebecca K. Goosen*

Dated: August \_\_\_\_\_, 2010

By: \_\_\_\_\_  
Roger G. Cotner (P36569)  
220 Franklin Ave.  
P.O. Box 838  
Grand Haven, MI 49417

Dated: August \_\_\_\_\_, 2010

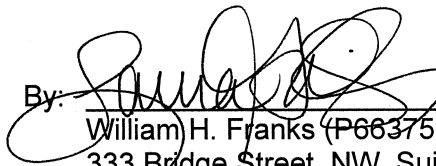
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Vernon Gene Goosen, Debtor

Dated: August \_\_\_\_\_, 2010

\_\_\_\_\_  
Rebecca K. Goosen

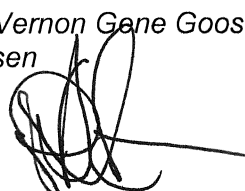
PLUNKETT COONEY  
*Attorneys for Defendant Independent Bank*

Dated: August 26, 2010

By:  P72278 w/  
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LOUIS R. LINT, P.C.  
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Rebecca K. Goosen*

Dated: August 25, 2010


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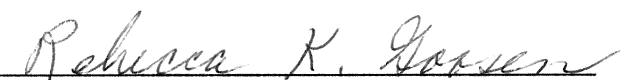
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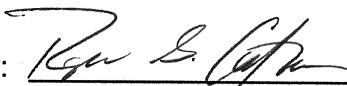
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